

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v-

5:21-CV-1265

2015 GMC YUKON SLT,

Defendant.

KAREN VILLANUEVA,

Claimant.

APPEARANCES:

HON. CARLA B. FREEDMAN
United States Attorney for the
Northern District of New York
445 Broadway, Room 218
Albany, NY 12207

KAREN VILLANUEVA
Claimant, Pro Se
142 Coolidge Avenue
Syracuse, NY 13204

DAVID N. HURD
United States District Judge

OF COUNSEL:

CHRISTOPHER MORAN, ESQ.
Ass't United States Attorney

ORDER VACATING CLERK'S ENTRY OF DEFAULT

On November 29, 2021, the United States of America (the “Government”) brought this *in rem* civil forfeiture action against three properties seized during the execution of a state search warrant on April 21, 2021: (1) \$14,536 in U.S. currency; (2) a 2015 GMC Yukon SLT with Vehicle Identification Number (“VIN”) 1GKS2BKC5FR267651; and (3) six assorted pieces of jewelry valued at \$14,535. Dkt. No. 1.

On January 20, 2022, *pro se* claimant Karen Villanueva (“Villanueva” or “claimant”) asserted an interest in the 2015 GMC Yukon SLT (the “GMC Yukon”). Dkt. No. 10. Although claimant’s answer to the complaint was due on February 28, 2022, Dkt. No. 16, she failed to meet this deadline, *see id.*

On March 15, 2022, the Government filed an application for the entry of default against the defendant properties. Dkt. No. 17. Because claimant had failed to file an answer, the Clerk of the Court entered default as to all three defendants—including the GMC Yukon—on March 15, 2022. Dkt. No. 19.

On March 24, 2022, Villanueva filed an “objection” to the Clerk’s entry of default. Dkt. No. 20. In this filing, claimant asserts that she did not receive the Order setting an answer deadline. *Id.* Claimant further asserts that while she has “no interest in the money seized nor the jewelry,” she has documents and evidence that establishes a claim to the GMC Yukon. *Id.*

On April 8, 2022, the Government filed a status report in which it suggested that Villanueva’s “objection” should be construed as a motion to set aside default. Dkt. No. 21. This status report further indicates that, so construed, the Government would have no objection to vacatur. *Id.* Instead, the Government would request a date certain by which claimant is obligated to respond to the allegations in the verified complaint. *Id.*

Upon review of Villaneuva’s “objection,” it is appropriate to construe this filing as a motion to set aside the Clerk’s entry of default as to the GMC Yukon. Under Rule 55, the court in its discretion may “set aside an entry of default for good cause.” FED. R. CIV. P. 55(c). This “good cause” inquiry turns on an assessment of whether (1) the default was willful; (2) setting aside the default would prejudice the adversary; and (3) a meritorious defense has been presented. *See, e.g., Johnson v. N.Y. Univ.*, 324 F.R.D. 65, 69 (S.D.N.Y. 2018).

A review of Villanueva’s filing confirms that she has met this “good cause” standard. That is especially so in light of the Government’s lack of objection and the Second Circuit’s “strong preference for resolving disputes on the merits.” *New York v. Green*, 420 F.3d 99, 104 (2d Cir. 2005) (cleaned up). Accordingly, the entry of default will be vacated as to the GMC Yukon.

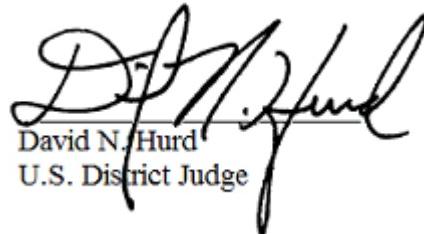
Therefore, it is

ORDERED that

1. The Clerk's entry of default is VACATED as to defendant 2015 GMC Yukon SLT with VIN #1GKS2BKC5FR267651;
2. Claimant Karen Villanueva shall file an answer to the verified complaint in accordance with Rule 8(b) of the Federal Rules of Civil Procedure and the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions **on or before May 10, 2022**; and
3. The Clerk is directed to serve a copy of the verified complaint and exhibits (Dkt. No. 1), a current docket sheet, and this Order on claimant.

IT IS SO ORDERED.

Dated: April 19, 2022
Utica, New York.



David N. Hurd
U.S. District Judge